

CHAPTER NO. 458

SENATE BILL NO. 1783

By Crowe

Substituted for: House Bill No. 1862

By Scroggs

AN ACT To amend Tennessee Code Annotated, Title 29, Chapter 20 and Title 9, Chapter 8, Part 3, relative to immunity for year 2000 computer calculation errors.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 9-8-307, is amended by inserting a new subdivision (a)(2)(E):

(E) Any failure or malfunction occurring before January 1, 2005, which is caused directly or indirectly by the failure of computer software or any device containing a computer processor to accurately or properly recognize, calculate, display, sort, or otherwise process dates or times, if, and only if, the failure or malfunction causing the loss was unforeseeable or if the failure or malfunction causing the loss was foreseeable but a reasonable plan or design or both for identifying and preventing the failure or malfunction was adopted and reasonably implemented complying with generally accepted computer and information system design standards.

SECTION 2. Tennessee Code Annotated, Title 9, Chapter 8, Part 3, is amended by adding the following as a new section:

Section _____. (a) Any contract entered into by or on behalf or and in the capacity of the State of Tennessee, or an officer or employee of the state of any of its agencies or political subdivisions must include a provision that holds harmless and indemnifies those persons for any breach of contract that is caused directly or indirectly by the failure of computer software or any device containing a computer processor to accurately or properly recognize, calculate, display, sort or otherwise process dates or times.

(b) Any contract subject to the provisions of this section that is entered into on or after the effective date of this act, has the legal effect of including the hold harmless standard required by this action, and any provision of the contract which is in conflict with this section is void.

SECTION 3. Tennessee Code Annotated, Section 29-20-205, is amended by adding the following language as a new subdivision (9):

(9) arises out of or in connection with any failure occurring before January 1, 2005, which is caused directly or indirectly by the failure of computer software or any device containing a computer processor to accurately or properly recognize, calculate, display, sort, or otherwise process dates or times, if, and only if, the failure or malfunction causing the loss was unforeseeable or if the failure or malfunction causing the loss was foreseeable but a reasonable plan or design or both for identifying and preventing the failure or malfunction was adopted

and reasonably implemented complying with generally accepted computer and information system design standards.

SECTION 4. Notwithstanding any other provision of the law, nothing in this act shall in any way limit the liability of a third party, direct or indirect, who is negligent. Further, a person who is injured by the negligence of a third party contractor, direct or indirect, shall have a cause of action against said contractor.

SECTION 5. This act shall take effect upon becoming law, the public welfare requiring it.

PASSED: May 26, 1999


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 17th day of June 1999


DON SUNDQUIST, GOVERNOR